S.B.Criminal Revision Petition No.1389/2007

Gulab Nabi & Anr.
v.
State of Rajasthan

Date of Order :: 19th December, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.C.Solanki, for the petitioners.
Mr. O.P.Rathi, Public Prosecutor.

....

At the instance of Smt. Durga, a matured lady of 30 years, a case was registered against the petitioner, his wife Smt. Mobina, his daughter Baby Minaz and son Tufel, contemplating offences under Sections 366, 376 and 120-B IPC. It was stated in the complaint that Tufel with the aid of Mobina, Minaz and Gulab Nabi, committed rape with Durga. The cognizance of the offences referred above was taken against all the persons named above by learned Additional Chief Judicial Magistrate (SD) No.3, Jodhpur by an order dated 29.10.2007. The order aforesaid came to be quashed to the extent it was relating to Smt. Mobina, Minaz and Gulab Nabi.

An another complaint was also lodged by Smt. Pushpa, mother of Smt. Durga alleging commission of offences punishable under Sections 366, 376 and 120-B IPC against Tufel and the present petitioners. The cognizance of the offences punishable under the

provisions referred above was taken by learned Additional Chief Judicial Magistrate (SD) No.3, Jodhpur under an order dated 29.10.2007 and the same is under challenge in the instant revision petition.

The contention of learned counsel for the petitioners is that there is no iota of evidence to implicate the petitioners in the case concerned.

I have gone through the entire police report and the documents annexed thereto. From perusal of the complaint as well as the statements recorded by the investigating agency under Section 161 Cr.P.C. it is apparent that there is nothing against petitioner Gulab Nabi on basis of that cognizance for the offence punishable under Sections 366, 376 and 120-B IPC could have been taken. Relevant to note that Smt. Durga while getting her statements recorded as per the provisions of Section 164 Cr.P.C. nowhere said anything against Gulab Nabi.

So far as the petitioner No.2 is concerned, this revision petition is not pressed seeking a liberty to raise all the contentions those are taken in present revision petition at the stage of framing of charges.

In view of whatever stated above, this revision petition is allowed in part. The order

impugned dated 29.10.2007 is quashed to the extent it relates to petitioner No.1 Gulab Nabi and the same is dismissed so far as that relates to petitioner No.2 Shri Mehboob with a liberty to raise all the contentions raised in this revision petition before the learned Magistrate at the time of framing the charges.

(GOVIND MATHUR),J.

Kkm/ps.